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SENSE OF CONGRESS ON ESSENTIAL AIR TRANSPORTATION

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DEPOSITORY

Mr. HOWARD, from the Committee on Public Works and Transportation, submitted the following

REPORT

[To accompany H. Con. Res. 339]

The Committee on Public Works and Transportation, to whom was referred the concurrent resolution (H. Con. Res. 339) expressing the sense of Congress that the essential air transportation program should be maintained for the ten-year period for which it is authorized, having considered the same, report favorably thereon without amendment and recommend that the concurrent resolution do pass.

BACKGROUND

Until 1978, interstate air transportation was subject to detailed economic regulation under the Federal Aviation Act of 1958, 49 U.S.C. 1301 et seq. The regulatory scheme entailed strictly-controlled entry and exit from the airline system. Once a carrier was certificated to service a point, it was required to maintain a minimum level of service. It could terminate service at a point only after notice and hearing, and only after the Civil Aeronautics Board [CAB] found such withdrawal to be in the public interest.

In 1978 Congress adopted the Airline Deregulation Act, Public Law 95-504, 92 Stat. 1705, which substantially revised the entire Federal Aviation Act. The principal goal of the deregulation act was to end government economic regulation of the domestic airline industry. The deregulation act therefore gradually reduced the CAB's regulatory authority, culminating in the abolition of the CAB itself at the end of 1984. The basis for this sweeping deregulation was Congress' intent to rely on competitive market forces as the best means of obtaining an efficient air transportation system.

Congress recognized, however, that market forces alone could not be relied on to maintain service to all small communities since

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many do not produce enough passenger traffic to support air service on a self-sustaining basis. The Deregulation Act, accordingly, established a ten-year essential air service [EAS] program in section 419, 49 U.S.C. 1389. The program is designed to guarantee small communities a level of service essential to their needs. This program was originally administered by the CAB but since January 1, 1985, it has been administered by the Department of Transportation [DOT]. Under the program, DOT must subsidize the essential air service when no carrier is willing to operate without subsidy.

Two groups of communities are eligible to receive this subsidized air service. The first group is made up of those that were listed on an airline's certificate at the time that the Deregulation Act was passed, section 419(a). The second group is composed of those that had been deleted from all such certificates in the 10 years before the Act's passage, and met the CAB's criteria for eligibility, section 419(b) and 14 CFR 270.

Those communities listed on an airline certificate in 1978 are guaranteed air service until October 24, 1988.

The CAB was instructed to establish an essential air transportation level for each community designated as an eligible point, Section 419(b)(4)(a). The Act broadly defines essential air transportation as scheduled service "provided under such criteria as the Board determines satisfies the needs of the community concerned for air transportation to one or more communities of interest and insures access to the Nation's air transportation system." The level of essential service may not be less than two roundtrips each weekday, unless the community's actual 1977 service was below that level, Section 419(f). The CAB adopted criteria defining essential service, 14 C.F.R. 398.

NEED FOR THE RESOLUTION

Although the Act states that the EAS guarantee was to remain in effect until 1988, for the past two years, DOT has proposed to eliminate this guarantee ahead of schedule. By doing so, they are asking the Congress to break the 10-year commitment it made to the small communities of this nation. The very existence of these proposals has cast doubt on the future of the EAS guarantee and has caused some airlines to reconsider their participation in the EAS program to the detriment of the communities involved. In addition, there were rumors in the past that DOT would reorganize its EAS Division in a way that could undermine the guarantees in the law.

It should be noted that the amount of Federal funds needed to support the EAS program is very small and has been decreasing. A few years ago, more than $100 million per year was spent on this program. But during fiscal year 1985, only $33.6 million of a $41.4 million appropriation was needed. The President's budget estimates that $37.8 million will be spent during the current fiscal year, although actual expenditures may be somewhat less than that. Since carryover funds remain from prior year appropriations, the amount needed to fund the program in fiscal year 1986 could be reduced even further. The House has found it necessary to appropriate only $19 million for FY 1987, $2 million less than recom-

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mended by the Appropriations Committee. House Report No. 99-696.

There are now about 50 small air carriers that receive the subsidy payments to serve about 150 small communities in 40 States. If the subsidy payments were to end, many of these communities would lose all air service and be cut off from the nation's air tranportation system.

In addition, there are more than 400 communities in almost every State, territory, and possession that benefit from the EAS program even though their air service is not subsidized. These are communities for which the law requires DOT to establish EAS levels. An airline serving one of these communities cannot terminate or reduce service below the established EAS levels unless it first gives advance notice to the community and to DOT. When DOT receives this notice, it must then prohibit that airline from terminating or reducing its service until a replacement carrier can begin service. This protects these communities from sudden and unannounced interruptions in air service. Without the EAS program, this protection would be gone.

DOT justifies its proposal to eliminate the EAS program "in light of the overall success of airline deregulation." While the nation's overall experience with airline deregulation has been successful, many small communities have not shared in this success. Indeed, this was to be expected and that is precisely why the EAS provision was included in the deregulation act. Although many small communities are now served by new commuter air carriers without reliance on EAS subsidy payments, most continue to benefit from the underlying EAS service guarantees and advance notice requirements in the current law. Others do depend on the EAS subsidy payments for their sole air link to the nation's air transportation system. More importantly, these communities have the right to expect that Congress will live up to the 10-year air service guarantees that Congress gave them in 1978.

Of course, the long-term effects of early termination of the EAS program are serious enough. What may be of even more concern is the immediate effect on current air service of the very existence of the Administration's proposal.

For example, the Committee has learned of two communities where DOT chose a carrier to provide the essential air service. This carrier had the support of the communities and could have provided the EAS at a lower subsidy rate than the airline it was replacing. However, once it learned of the DOT's proposal to abolish the EAS program ahead of the schedule in the Deregulation Act, the carrier apparently began to have second thoughts. Quite understandably, it was reluctant to make a substantial investment in new aircraft if the EAS program was to last only a few more months. Thus, the service benefits and subsidy savings that would be realized by this new service were placed in jeopardy. This sequence of events will be repeated at other communities in the future if the EAS program is again placed in doubt.

It is clear that the annual proposal to abolish the EAS program serves to create uncertainty among the small communities and commuter air carriers that rely on it and on the staff that administers it. This can only undermine the long-term viability of the

small community air service that the EAS program was designed to foster. Given the miniscule effect that abolishing this program would have on the Federal deficit, it would be better to let the EAS program continue for the 10-year period promised in the Deregulation Act before considering whether to modify or abolish it.

Informally, the Committee has heard that DOT is moving away from its plan to eliminate the EAS program. But as recently as last June, the Director of the Office of Management and Budget [OMB] wrote to the Appropriations Committee and labeled that Committee's plan to continue EAS funding as "unwarranted" and "objectionable." Therefore, passage of this resolution is needed to help ensure that the EAS program continues for at least the period Congress intended, that is until October 1988.

REPORTED RESOLUTION

The reported resolution restates the history and Congressional concerns described above. As a result, it states that it is the sense of Congress that the essential air transportation program established by section 419 of the Federal Aviation Act of 1958 should be maintained for the 10-year period for which it is authorized. It also states that no action should be taken by any executive department or agency to undermine the essential air transportation program.

It should be noted that this resolution is only meant to ensure that the EAS program continues until at least October 24, 1988. What happens after that date will be addressed by the Committee at a later date.

COMMITTEE ACTION AND VOTE

With respect to clause 2(l)(2) (A) and (B) of rule XI of the Rules of the House of Representatives, the Committee, with a majority present, favorably reported, by voice vote, H. Con. Res. 339, on September 10, 1986.

Prior to the Committee's action and vote the Subcommittee on Aviation received testimony on the Essential Air Service program in hearings on the effects of the President's FY 1987 budget proposals on aviation programs on March 12, 1986 (Committee Publication 99-46), and on July 31, 1986, the Subcommittee considered and reported the Concurrent Resolution to the Committee.

OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that no separate hearings were held on the subject matter of the legislation by the Subcommittee on Investigations and Oversight.

With respect to clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to the subject matter.

CONGRESSIONAL BUDGET ACT REQUIREMENTS

With respect to clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives, and in compliance with section 308(a) of

the Congressional Budget Act of 1974, the Committee reports that H. Con. Res. 339 does not provide any new budget authority or new or increased tax expenditures.

With respect to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee's understanding is that reports are not prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974 for Sense of the Congress Resolutions.

INFLATIONARY IMPACT ANALYSIS

With respect to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee reports that there should be no inflationary impact on prices and costs in the operation of the national economy by enactment of H. Con. Res. 339.

COST ESTIMATE OF LEGISLATION

With respect to clause 7(A)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that H. Con. Res. 339 authorizes no funding and that no costs should be incurred by enactment of the resolution.

With respect to clause 7(A)(2) of rule XIII of the Rules of the House of Representatives, the Committee reports that no cost estimate of H. Con. Res. 339 was submitted to the Committee by a government agency.

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